

Ordinance 2015-24

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 28, ENTITLED “ZONING” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY.”

BE IT ORDAINED by the Borough Council of the Borough of Hightstown, County of Mercer, New Jersey, that the Chapter 28, entitled “Zoning” of the “Revised General Ordinances of the Borough of Hightstown” is hereby amended to add a new Section, Clothing Bins, as follows:

SECTION 1: Purpose

The purpose of this ordinance is to accommodate clothing bins intended for charitable purposes only in appropriate locations, while protecting the public’s health, safety and welfare. In addition, this ordinance provides a permitting process for charitable clothing bins to ensure compliance with the provisions of the requirements and standards established herein.

SECTION 2: Add a Section to Chapter 28, Scope and Purpose, as follows:

Clothing Bins, Locations and Permits

Charitable clothing bins may be placed only in the following locations and under all applicable conditions:

At church and other religious institution parking lots (1 bin per site); and

At other sites located in non-residential zoning districts that are under private ownership, provided that bin placement meets all conditions herein (1 bin per site).

No charitable clothing bins shall be placed on Borough-owned property or in residential zoning districts.

Notwithstanding any other provision to the contrary, following the adoption of this Ordinance, no person or entity shall place, use or employ a donation charitable clothing bin, for solicitation purposes, unless all of the following requirements are met:

A. The donation charitable clothing bin is owned by a charitable organization registered with the Attorney General for the State of New Jersey pursuant to P.L. 1994, c. 16 or any person or entity; and

B. The registered charitable organization or other person or entity owning and monitoring the clothing bin for charitable purposes only has obtained a permit valid for a period not to exceed one year, from the Borough Zoning Officer, in accordance with the following:

1. In applying for such permit, the registered charitable organization, person or entity shall include the following information, at a minimum.

a) The size of the clothing bin (enclosed and not larger than 6 feet by 6 feet) and the specific location where the bin will be situated, as precisely as possible;

b) The manner in which the charitable organization or other person or entity anticipates any clothing or donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

c) The name, address, and telephone number of the bona fide office of the applicant and of person or entity sharing or profiting from any clothing or other donations collected via the bin;

d) The schedule of pick-ups removing the articles from the bins, which shall be no less often than once per week, and the name and telephone number of the person or entity to be notified if the bin is overflowing prior to the scheduled date of pick-up; and

e) Written and notarized consent from the property owner, or the owners authorized representative, to place the bin on his/her/its property.

2. The Zoning Officer shall not approve an application and grant a permit to place, use, or employ a donation charitable clothing bin if he determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but are not limited to, the placement of a donation charitable clothing bin in existing parking spaces, in any area which interferes with pedestrian or vehicular traffic or access, obscures site visibility, hinders firefighting, violates any site plan approval applicable to the property, or is at a location which stores large amounts of, or sells, fuel or other flammable liquids or gasses.

3. The fee for the application for the permit shall be \$25.00.

4. All permits for a donation charitable clothing bin may be renewed by a charitable organization or other person or entity upon payment of the \$25.00 renewal fee and by application that shall include the following information:

a) The location where the bin is situated, as precisely as possible, and, if applicant intends to move it, the new location where the bin would be situated after the renewal is granted;

b) The manner in which the person or entity has used, sold or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donation have been allocated or spend, and any changes the person or entity anticipated it may make in these processes during the period covered by the renewal;

c) The name, address and telephone number of the bona fide office of the applicant and any person or entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal;

d) The schedule of pick-ups removing the articles from the bins, which can be no less often than once per week, and the name and telephone number of the person or entity to be notified if the bin is overflowing prior to the scheduled date of pick-up; and

e) Written and notarized consent from the property owner, or the owner's authorized representative, to place the bin on his/her/its property;

5. The following information shall be clearly, permanently and conspicuously written in either permanent paint or marker on the exterior of the donation charitable clothing bin:

a) The name and address of the registered charitable organization or person or entity owning the bin, and of any other person or entity which may share or profit from any clothing or other donations collected via the bin.

b) The telephone number of the organization's bona fide office and, if applicable, the telephone number of the bona fide office of any other person or entity which may share or profit from any

clothing or other donations collected via the bin. The telephone number of an answering machine or service unrelated to the charitable organization does not satisfy this requirement.

c) The charitable organization or other person or entity's registration number, permit number and its date of expiration.

d) A statement, indicating the manner in which the charitable organization or other person or entity anticipated any clothing or other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

6. Any clothing bin permitted hereunder shall be kept clean, properly painted, maintained, and shall be free of defects. Only clothing shall be deposited in a charitable clothing bin and no material shall be placed or stored on or outside of a clothing bin.

C. An enforcement official designated by the Borough Administrator, shall receive and investigate, within 30 days, all complaints about bins, and shall enforce this Ordinance.

1. Whenever it appears to the enforcement official that an entity, or person or entity has engaged in or is engaging in any act or practice in violation of this Ordinance, the organization or person or entity who placed the bin shall be issued a warning, stating that if the violation is not rectified or an appeal taken within 45 days, then the bin, any clothing or other donations collected via the bin will be sold at public auction. In addition to any other means used to notify the person or entity who placed the bin, a warning shall be affixed to the exterior of the bin itself, and the bin shall not be used until the violations are cured and the appeal is decided.

2. In the event that the person or entity or entity who placed the bin does not cure the violation or request a hearing before the Borough Administrator within 45 days of the posting of the warning, the Borough may seize the bin, remove it or have it removed, at the expense of the person or entity who placed the bin, and sell it at public auction, and otherwise dispose of any clothing or other donations collected via the bin, which proceeds shall be paid to the Borough's Chief Financial Officer.

3. In addition, any person or entity who violates any provision of PL 2007, C.209 shall be subject to a penalty for each violation as specified pursuant to PL 2007, C.209, of up to \$20,000 per violation and such other penalties or remedies permitted by law.

D. If any provision or portion of a provision of this Ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Ordinance shall not be invalidated.

E. Within 60 days from the enactment of this Ordinance all existing charitable clothing bins shall meet all conditions of this Ordinance and shall obtain and display permits or be removed from their location by the person or entity placing the bin or shall be subject to removal by the Borough at the cost and expense of the person or entity placing or owning the bin. During the 60 day period, no additional charitable clothing bins may be placed in the Borough.

SECTION 3 Severability

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph or other wording in this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

SECTION 4 Effective Date

This Ordinance shall take effect upon compliance with procedures prescribed by law, including NJSA 40:55D-97 of the Municipal Land Use Law (Submission of plan and ordinances to County Planning Board for approval).

Introduced: October 19, 2015

Adopted:

ATTEST:

Debra L. Sopronyi
Municipal Clerk

Lawrence D. Quattrone
Mayor